

State of Kansas

Department for Aging and Disability Services

**NOTICE OF HEARING ON PROPOSED
ADMINISTRATIVE REGULATIONS**

(Editor's Note: The hearing on proposed administrative regulations scheduled for September 9, 2013, notice of which was published in the July 4, 2013, Kansas Register, has been cancelled. The hearing has been rescheduled as published in the following notice.)

A public hearing will be conducted on Thursday, September 19, 2013 at 1:30 p.m. in the Kansas Department for Aging and Disability Services' 331W Conference Room, 503 S. Kansas Ave., New England Building, Topeka, to consider the adoption of proposed rules and regulations of the Kansas Department for Aging and Disability Services (KDADS) on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving public comments on the proposed rules and regulations and replaces the previous public hearing date of September 9, 2013. All interested parties may submit written comments prior to the hearing to Karla Werth, Legal Division, Kansas Department for Aging and Disability Services, 503 S. Kansas, Topeka, 66603 or by e-mail to karla.werth@kdads.ks.gov. All interested parties will be given a reasonable opportunity to present their views written or orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Karla Werth at (785) 291-0653 or TTY (785) 291-3167. Handicapped parking is located on the east side of the New England Building's entrance on Kansas Avenue.

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website: www.kdads.ks.gov/HOC/HOC_Index.html. Printed copies are available at the front desk of the KDADS office at the address listed above.

A list of the proposed regulations and a brief summary follows. No economic impact is anticipated.

Regulations Proposed for Amending: Definitions for Adult Care Homes and Their Employees

K.A.R. 26-39-100. Definitions. The amendment to this KDADS regulation specifies its applicability to both adult care homes and their employees, with the following revisions incorporated: 1) definition for "concentrated livestock operation"; 2) terminology changes to "intermediate care facility for people with intellectual disabilities" and "advanced practice registered nurse"; and 3) changes of the department's name to Kansas Department for Aging and Disability Services, and regulatory references for nurse aide and medications aides.

New Regulations: Health Occupation Credentialing Regulations-Unlicensed Employees in Adult Care Homes

K.A.R. 26-50-10. Definitions. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-164. The regulation includes additional terms: general supervision, course supervisor; revised definitions: instructor, eligible for employment; and deleted duplicate terms defined in K.A.R. 26-39-100.

K.A.R. 26-50-12. Curricula and instruction manuals. This new regulation centralizes the Nurse Aide and Medication Aide Curriculum Guides and the respective course instruction manuals dated May 10, 2013, into a single regulation.

K.A.R. 26-50-20. Nurse aide; training program. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-165. The regulation identifies the certification of a person as a nurse aide by placement of that person's name on the Kansas nurse aide registry versus the issuance of a paper certificate. The regulation also specifies clinical instruction and demonstration of skill competency of the training course must take place in a setting that offers a full range of clinical tasks and experiences as specified in the curriculum.

K.A.R. 26-50-22. Nurse aide training course; personnel and course sponsor. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-166. The regulation presents a new structure and additional requirements for the nurse aide training course personnel that includes: 1) A course supervisor who provides general supervision of the CNA training course. The requirements for a person in this position were previously those of the course instructor. 2) An RN who is the instructor of the training course. This person must complete seven hours of professional continuing education offerings on person centered care prior to teaching the course and annually thereafter. This replaces the current requirement of having 1750 hours of licensed nursing experience in an adult care home or long term care unit of a hospital; and 3) a registered nurse who has at least one year of licensed nurse experience in providing care for the elderly or chronically ill who are 16 years of age or older to whom a nurse aide trainee must demonstrate competency in all skills identified on part I of the nurse aide training and competency evaluation program task checklist.

K.A.R. 26-50-24. Nurse aide; state test. This new regulation corresponds to existing KDHE Regulation K.A.R. 28-39-168. The regulation permits any entity administering the state test to charge each person a test administration fee.

K.A.R. 26-50-26. Nurse aide; Out-of-state and allied health training equivalency. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-167. The statutory requirement for granting equivalency was added to this regulation.

K.A.R. 26-50-30. Medication aide; program. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169a. The regulation requires a medication aide to be at least 18 years of age.

K.A.R. 26-50-32. Medication aide course; instructor and course sponsor. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169a.

K.A.R. 26-50-34. Medication aide; state test; registry. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169b. The regulation specifies the eligibility requirements for a person who takes the test. The regulation also identifies the certification of a person as a medication aide on the Kansas nurse aide registry versus the issuance of a paper certificate.

K.A.R. 26-50-36. Medication aide; Out-of-state and allied health training equivalency. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169a.

K.A.R. 26-50-38. Medication aide; certification renewal and reinstatement; notification of changes. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169c. The regulation requires a person whose certification as a medication aide has been expired for more than one year to retake the medication aide course and state test for reinstatement of their certification.

K.A.R. 26-50-40. Medication aide; continuing education course. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169c.

Health Occupations Credentialing Regulation Revocations:

K.A.R. 28-39-164 – Definitions

K.A.R. 28-39-165 – Nurse Aide Training Program

K.A.R. 28-39-166 – Nurse Aide Course Instructor

K.A.R. 28-39-167 – Out-of-state and Allied Health Training Endorsement for Nurse Aide

K.A.R. 28-39-168 – State Nurse Aide Test

K.A.R. 28-39-169a – Medication Aide

K.A.R. 28-39-169b – State Medication Aide Test

K.A.R. 28-39-169c – Medication Aide Continuing Education

26-39-100. Definitions. The following terms and definitions shall apply to all of the department's regulations governing adult care homes and their employees: (a) "Activities director" means an individual who meets at least one of the following requirements:

- (1) Has a degree in therapeutic recreation;
- (2) is licensed in Kansas as an occupational therapist or occupational therapy assistant;
- (3) has a bachelor's degree in a therapeutic activity field in art therapy, horticultural therapy, music therapy, special education, or a related therapeutic activity field;
- (4) is certified as a therapeutic recreation specialist or as an activities professional by a recognized accrediting body;
- (5) has two years of experience in a social or recreational program within the last five years, one of which was full-time in an activities program in a health care setting; or
- (6) has completed a course approved by the ~~Kansas department of health and environment~~ in resident activities coordination and receives consultation from a therapeutic recreation specialist, an occupational therapist, an occupational therapy assistant, or an individual with a bachelor's degree in art therapy, music therapy, or horticultural therapy.

(b) "Addition" means an increase in the building area, aggregate floor area, or number of stories of an adult care home.

(c) "Administrator" means an individual who is responsible for the general administration of an adult care home, whether or not the individual has an ownership interest in the adult care home. Each administrator of an adult care home shall be licensed in accordance with K.S.A. 65-3501 et seq., and amendments thereto.

(d) "Adult care home" has the meaning specified in K.S.A. 39-923₂ and amendments thereto.

(e) "Adult day care" has the meaning specified in K.S.A. 39-923₂ and amendments thereto.

(f) "Advanced practice registered nurse practitioner" and "APRN" ~~means an individual who is certified by~~ mean an RN who holds a license from the Kansas board of nursing as an advanced registered nurse practitioner to function as a professional nurse in an advanced role as defined by regulations adopted by the Kansas board of nursing.

(g) "Ambulatory resident" means any resident who is physically and mentally capable of performing the following without the assistance of another person:

(1) Getting in and out of bed; and

(2) walking between locations in the living environment.

(h) "Applicant" means any individual, firm, partnership, corporation, company, association, or joint stock association requesting a license to operate an adult care home.

(i) "Assisted living facility" has the meaning specified in K.S.A. 39-923₂ and amendments thereto.

(j) "Audiologist" means an individual who is licensed by the ~~Kansas department of health and environment~~ ~~Kansas~~ as an audiologist.

(k) "Basement" means the part of a building that is below grade.

(l) "Biologicals" means medicinal preparations made from living organisms and their products, including serums, vaccines, antigens, and antitoxins.

(m) "Boarding care home" has the meaning specified in K.S.A. 39-923, and amendments thereto.

(n) "Case manager" means an individual assigned to a resident to provide assistance in access and coordination of information and services in a program authorized by the Kansas department ~~on~~ for aging and disability services, the Kansas department ~~of social and rehabilitation services~~ for children and families, or the ~~Kansas health policy authority~~ division of health care finance in the Kansas department of health and environment.

(o) "Change of ownership" means any transaction that results in a change of control over the capital assets of an adult care home.

(p) "Chemical restraint" means a medication or biological that meets the following conditions:

(1) Is used to control a resident's behavior or restrict a resident's freedom of movement; and

(2) is not a standard treatment for a resident's medical or psychiatric condition.

(q) "Clinical record" means the record that includes all the information and entries reflecting each resident's course of stay in an adult care home.

(r) "Concentrated livestock operation" means a site where domestic animals are kept for sale and profit and where crops, vegetation, forage growth, or postharvest residues are not sustained during the normal growing season.

(s) "Contaminated laundry" means any clothes or linens that have been soiled with body substances including blood, stool, urine, vomitus, or other potentially infectious material.

~~(s)~~(t) "Controlled substance" means any medication, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, K.S.A. 65-4107, K.S.A. 65-4109, K.S.A. 65-4111, and K.S.A. 65-4113, and amendments thereto.

~~(t)~~(u) "Day shift" means any eight-hour to 12-hour work period that occurs between the hours of 6 a.m. and 9 p.m.

~~(u)~~(v) "Department" means ~~the~~ the Kansas department ~~on~~ for aging and disability services.

~~(v)~~(w) "Dietetic services supervisor" means an individual who meets one of the following requirements:

- (1) Is licensed in Kansas as a dietitian;
- (2) has an associate's degree in dietetic technology from a program approved by the American dietetic association;
- (3) is a dietary manager who is certified by the certifying board of the for dietary managers² managers of the association of nutrition and foodservice professionals; or
- (4) has training and experience in dietetic services supervision and management that are determined by the Kansas department ~~on~~ for aging and disability services to be equivalent in content to the requirement specified in paragraph (2) or (3) of this subsection.

~~(w)~~(x) "Dietitian" means an individual who is licensed by the ~~Kansas~~ department ~~of health and environment~~ as a dietitian.

~~(x)~~(y) "Direct care staff" means the individuals employed by or working under contract for an adult care home who assist residents in activities of daily living. These activities may include the following:

- (1) Ambulating;
- (2) bathing;
- (3) bed mobility;
- (4) dressing;
- (5) eating;
- (6) personal hygiene;
- (7) toileting; and
- (8) transferring.

~~(y)~~(z) "Director of nursing" means a position in a nursing facility or a nursing facility for mental health that is held by one or more individuals who meet the following requirements:

- (1) Each individual shall be licensed ~~in Kansas as a registered professional nurse~~ an RN.
- (2) If only one individual serves in this position, the individual shall be employed at least 35 hours each week.
- (3) If more than one individual serves in this position, the individuals shall be employed collectively for a total of at least 40 hours each week.
- (4) Each individual shall have the responsibility, administrative authority, and accountability for the supervision of nursing care provided to residents in the nursing facility or the nursing facility for mental health.

~~(z)~~(aa) "Full-time" means 35 or more hours each week.

~~(aa)~~(bb) "Health information management practitioner" means an individual who is certified as a registered health information administrator or a registered health information technician by the American health information management association.

~~(bb)~~(cc) "Home plus" has the meaning specified in K.S.A. 39-923, and amendments thereto.

~~(ee)~~(dd) "Interdisciplinary team" means the following group of individuals:

- (1) ~~A registered nurse~~ An RN with responsibility for the care of the residents; and
- (2) other appropriate staff, as identified by resident comprehensive assessments, who are responsible for the development of care plans for residents.

~~(dd)~~(ee) "Intermediate care facility for ~~the mentally retarded~~ people with intellectual disability" has the meaning specified in K.S.A. 39-923, and amendments thereto.

~~(ee)~~(ff) "Legal representative" means an agent acting within the bounds of the agent's legal authority who meets any of the following criteria:

- (1) Has been designated by a resident to serve as the resident's trustee, power of attorney, durable power of attorney, or power of attorney for health care decisions;
- (2) is a court-appointed guardian or conservator authorized to act on behalf of the resident in accordance with K.S.A. 59-3051 et seq., and amendments thereto; or
- (3) if the resident is a minor, is either of the following:
 - (A) A natural guardian, as defined in K.S.A. 59-3051 and amendments thereto; or
 - (B) a court-appointed guardian, conservator, trustee, or an individual or agency vested with custody of the minor pursuant to the revised Kansas code for care of children, K.S.A. 2012 Supp. 38-2201 through 38-2283; and amendments thereto, or the revised Kansas juvenile justice code, K.S.A. 2012 Supp. 38-2301 through 38-2387; and amendments thereto.

~~(ff)~~(gg) "Licensed mental health technician" means an individual licensed by the Kansas

board of nursing as a licensed mental health technician.

~~(gg)~~(hh) "Licensed nurse" means an individual licensed by the Kansas board of nursing as a registered professional nurse or licensed practical nurse.

~~(hh)~~(ii) "Licensed practical nurse" ~~means~~ and "LPN" mean an individual who is licensed by the Kansas board of nursing as a licensed practical nurse and is supervised by a registered professional nurse, in accordance with K.S.A. 65-1113 and amendments thereto.

~~(ii)~~(jj) "Licensee" means an individual, firm, partnership, association, company, corporation, or joint stock association authorized by a license obtained from the secretary of ~~aging~~ to operate an adult care home.

~~(jj)~~(kk) "Medical care provider" means any of the following individuals:

(1) A physician licensed by the Kansas board of healing arts to practice medicine and surgery, in accordance with K.S.A. ~~65-28,102~~ 65-2801 et seq. and amendments thereto;

(2) a physician assistant (PA) who is licensed by the Kansas board of healing arts, in accordance with K.S.A. 65-28a02 and amendments thereto, and who provides health care services under the direction and supervision of a responsible physician; or

(3) ~~an advanced registered nurse practitioner who is licensed by the Kansas board of nursing in accordance with K.S.A. 65-1113 and amendments thereto and who provides health care services in accordance with article 11 of the Kansas board of nursing's regulations~~ APRN.

~~(kk)~~(ll) "Medication" means any "drug," as defined by K.S.A. 65-1626 and amendments thereto.

~~(ll)~~(mm) "Medication administration" means an act in which a single dose of a prescribed medication or biological is given by application, injection, inhalation, ingestion, or any other means to a resident by an authorized person in accordance with all laws and regulations governing the administration of medications and biologicals. Medication administration shall consist of the following:

- (1) Removing a single dose from a labeled container, including a unit-dose container;
- (2) verifying the medication and dose with the medical care provider's orders;
- (3) administering the dose to the ~~proper~~ resident; and
- (4) documenting the dose in the resident's clinical record.

~~(mm)~~(nn) "Medication aide" means an individual who ~~has a medication aide certificate issued by the Kansas department of health and environment~~ is certified by the department as a medication aide according to K.A.R. ~~28-39-169b~~ 26-50-30 and is supervised by a licensed nurse.

~~(nn)~~(oo) "Medication dispensing" means the delivery of one or more doses of a medication by a licensed pharmacist or physician. The medication shall be dispensed in a container and labeled in compliance with state and federal laws and regulations.

~~(oo)~~(pp) "Non-ambulatory resident" means any resident who is not physically or mentally capable of performing the following without the assistance of another person:

- (1) Getting in and out of bed; and

(2) walking between locations in the living environment.~~(pp)~~(qq) "Nurse aide" means an individual who ~~has a nurse aide certificate issued by the Kansas department of health and environment according to K.A.R. 28-39-165~~ and meets the following requirements:

(1) Is certified as a nurse aide by the department and is listed on the Kansas nurse aide registry according to K.A.R. 26-50-20; and

(2) is supervised by a licensed nurse.

~~(qq)(rr)~~ "Nurse aide trainee" means an individual who is in the process of completing a nurse aide training program as specified in K.A.R. ~~28-39-165 or K.A.R. 28-39-167~~ and has not been issued a nurse aide certificate by the Kansas department of health and environment.

26-50-20 or K.A.R. 26-50-24, is not certified by the department as a nurse aide, and is not listed on the Kansas nurse aide registry. There are two types of nurse aide trainee: nurse aide trainee I and nurse aide trainee II. These two terms are defined in K.A.R. 26-50-10.

~~(rr)(ss)~~ "Nursing facility" has the meaning specified in K.S.A. 39-923, and amendments thereto.

~~(ss)(tt)~~ "Nursing facility for mental health" has the meaning specified in K.S.A. 39-923, and amendments thereto.

~~(tt)(uu)~~ "Nursing personnel" means all of the following:

- (1) ~~Registered professional nurses~~ RNs;
- (2) ~~licensed practical nurses~~ LPNs;
- (3) licensed mental health technicians in nursing facilities for mental health;
- (4) medication aides;
- (5) nurse aides;
- (6) nurse aide trainees II; and
- (7) paid nutrition assistants.

~~(uu)~~(vv) "Nursing unit" means a distinct area of a nursing facility serving not more than 60 residents and including the service areas and rooms described in K.A.R. 26-40-302 and K.A.R. 26-40-303.

~~(vv)~~(ww) "Occupational therapist" means an individual who is licensed with the Kansas board of healing arts as an occupational therapist.

~~(ww)~~(xx) "Occupational therapy assistant" means an individual who is licensed by the Kansas board of healing arts as an occupational therapy assistant.

~~(xx)~~(yy) "Operator" has the meaning specified in K.S.A. 39-923, and amendments thereto.

~~(yy)~~(zz) "Paid nutrition assistant" has the meaning specified in K.S.A. 39-923, and amendments thereto. In addition, each paid nutrition assistant shall meet the following requirements:

(1) Have successfully completed a nutrition assistant course approved by the ~~Kansas department of health and environment~~;

(2) provide assistance with eating to residents of an adult care home based on an assessment by the supervising licensed nurse, the resident's most recent minimum data set assessment or functional capacity screening, and the resident's current care plan or negotiated service agreement;

(3) provide assistance with eating to residents who do not have complicated eating problems, including difficulty swallowing, recurrent lung aspirations, and tube, parenteral, or intravenous feedings;

(4) be supervised by a licensed nurse on duty in the facility; and

(5) be able to contact the supervising licensed nurse verbally or on the resident call system for help in case of an emergency.

~~(zz)~~(aaa) "Personal care" means assistance provided to a resident to enable the resident to perform activities of daily living, including ambulating, bathing, bed mobility, dressing, eating, personal hygiene, toileting, and transferring.

~~(aaa)~~(bbb) "Pharmacist" has the meaning specified in K.S.A. 65-1626, and amendments thereto.

~~(bbb)~~(ccc) "Physical restraint" means any method or any physical device, material, or equipment attached or adjacent to the resident's body and meeting the following criteria:

- (1) Cannot be easily removed by the resident; and
- (2) restricts freedom of movement or normal access to the resident's body.

~~(eee)~~(ddd) "Physical therapist" means an individual who is licensed by the Kansas board of healing arts as a physical therapist.

~~(ddd)~~(eee) "Physical therapy assistant" means an individual who is certified by the Kansas board of healing arts as a physical therapy assistant.

~~(eee)~~(fff) "Physician" has the meaning specified in K.S.A. 65-28,102, and amendments thereto.

~~(fff)~~(ggg) "Psychopharmacologic drug" means any medication prescribed with the intent of controlling mood, mental status, or behavior.

~~(ggg)~~(hhh) "Registered professional nurse" ~~means~~ and "RN" mean an individual who is licensed by the Kansas ~~state~~ board of nursing as a registered professional nurse.

~~(hhh)~~(iii) "Renovation" means a change to an adult care home that affects the building's structural integrity or life safety system.

~~(iii)~~(jjj) "Resident" has the meaning specified in K.S.A. 39-923, and amendments thereto.

~~(jjj)~~(kkk) "Resident capacity" means the number of an adult care home's beds or adult day care slots, as licensed by the ~~Kansas~~ department ~~on aging~~.

~~(kkk)~~(lll) "Residential health care facility" has the meaning specified in K.S.A. 39-923, and amendments thereto.

~~(lll)~~(mmm) "Respite care" means the provision of services to a resident on an intermittent basis for periods of fewer than 30 days at any one time.

~~(mmm)~~(nnn) "Restraint" ~~is~~ means the control and limitation of a resident's movement by physical, mechanical, or chemical means.

~~(nnn)~~(ooo) "Sanitization" means effective bactericidal treatment by a process that reduces the bacterial count, including pathogens, to a safe level on utensils and equipment.

~~(ooo)~~(ppp) "Secretary" means ~~the~~ secretary of the Kansas department ~~on~~ for aging and disability services.

~~(ppp)~~(qqq) "Self-administration of medication" means the determination by a resident of when to take a medication or biological and how to apply, inject, inhale, ingest, or take a medication or biological by any other means, without assistance from nursing staff.

~~(qqq)~~(rrr) "Significant change in condition" means a decline or improvement in a resident's mental, psychosocial, or physical functioning that requires a change in the resident's comprehensive plan of care or negotiated service agreement.

~~(rrr)~~(sss) "Social services designee" means an individual who meets at least one of the following qualifications:

- (1) Is licensed by the Kansas behavioral sciences regulatory board as a social worker;
- (2) has a bachelor's degree in a human service field, including social work, sociology, special education, rehabilitation counseling, or psychology, and receives supervision from a licensed social worker; or
- (3) has completed a course in social services coordination approved by the ~~Kansas~~ department of ~~health and environment~~ and receives supervision from a licensed social worker on a regular basis.

~~(sss)~~(ttt) "Social worker" means an individual who is licensed by the Kansas behavioral sciences regulatory board as a social worker.

~~(ttt)~~(uuu) "Speech-language pathologist" means an individual who is licensed by the ~~Kansas~~ department of ~~health and environment~~ as a speech-language pathologist.

~~(uuu)~~(vvv) "Working day" means any day other than a Saturday, Sunday, or day designated as a holiday by the United States congress or the Kansas legislature or governor.

(Authorized by K.S.A. 39-932 and K.S.A. 2012 Supp. 39-1901 and 39-1908; implementing K.S.A. 2009 2012 Supp. 39-923 and, K.S.A. 39-932, and K.S.A. 2012 Supp. 39-1908; effective May 22, 2009; amended Jan. 7, 2011; amended, T-_____, _____; amended P- _____.)

Article 50: Unlicensed Employees in Adult Care Homes

26-50-10. Definitions. Each of the following terms, as used in this article, shall have the meaning specified in this regulation: (a) “Clinical instruction” shall mean training in which the trainee demonstrates knowledge and skills while performing tasks on a person under the direct supervision of the instructor.

(b) “Course supervisor” shall mean an individual who has been approved by the secretary to provide general supervision of the nurse aide training course.

(c) “Direct care” shall mean assistance provided to perform activities of daily living.

(d) “Direct supervision” shall mean that a supervisor or an instructor is on the facility premises and is readily accessible for one-on-one consultation, instruction, and assistance, as needed.

(e) “Eligible for employment,” when describing a certified nurse aide, shall mean that the certified nurse aide meets the following criteria:

(1) Was employed to perform nursing or nursing-related services for at least eight hours in the preceding 24 months;

(2) has no record of medicare or medicaid fraud;

(3) has no record of abuse, neglect, and exploitation; and

(4) is not prohibited from employment based upon criminal convictions pursuant to K.S.A. 39-970, and amendments thereto.

(f) “General supervision” shall mean a course supervisor’s provision of the necessary guidance and maintenance of ultimate responsibility for a nurse aide training course in

accordance with the standards established by the department in the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas certified nurse aide course (90 hour) instruction manual,” which are adopted by reference in K.A.R. 26-50-12.

(g) “Instructor” shall mean either of the following:

(1) An individual who has been approved by the nurse aide course supervisor to teach the nurse aide training course; or

(2) an individual who has been approved by the secretary to teach the home health aide or medication aide training courses.

(h) “Licensed nursing experience” shall mean experience as an RN or LPN.

(i) “Nurse aide trainee I” shall mean a nurse aide trainee who is in the process of completing part I of a 90-hour nurse aide course as specified in K.A.R. 26-50-20.

(j) “Nurse aide trainee II” shall mean a nurse aide trainee who has successfully completed part I of a 90-hour nurse aide course specified in K.A.R. 26-50-20 or whose training has been determined equivalent as specified in K.A.R. 26-50-26.

(k) “Qualified intellectual disability professional” shall mean an individual who meets the requirement specified in 42 C.F.R. 483.430 (a), as revised on June 16, 2012 and hereby adopted by reference.

(l) “Simulated laboratory” shall mean an enclosed area that is in a school, institution, adult care home, or other facility and that is similar to a resident’s room in an adult care home. A simulated laboratory may serve as a setting for nurse aide trainees to practice basic nurse aide skills with the instructor and to demonstrate basic nurse aide skills for competency evaluation.

26-50-10 (3)

(Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T- _____, _____; effective P- _____.)

26-50-12. Curricula and instruction manuals. (a) The following departmental documents, which are hereby adopted by reference, shall apply to each certified nurse aide program:

(1) “Kansas certified nurse aide curriculum guidelines (90 hours),” dated May 10, 2013, including appendix C, except the resource list on page 172, and excluding the preface and appendices A and B; and

(2) the cover page and pages 1 through 16 in the “Kansas certified nurse aide course (90 hour) instruction manual,” dated May 10, 2013.

(b) The following departmental documents, which are hereby adopted by reference, shall apply to each certified medication aide program:

(1) “Kansas certified medication aide curriculum,” dated May 10, 2013, excluding the foreword and the appendices; and

(2) pages 1 through 20 in the “Kansas certified medication aide course instruction manual,” dated May 10, 2013. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T- _____, _____; effective P- _____.)

26-50-20. Nurse aide; training program. (a) Each unlicensed employee who provides direct care to residents shall meet the following training program requirements:

(1) Successfully complete at least a 90-hour nurse aide course approved by the secretary;
and

(2) pass the state test as specified in K.A.R. 26-50-24.

(b) Each person shall be certified and shall be listed on the Kansas nurse aide registry upon completion of the training program requirements specified in subsection (a).

(c)(1) Each nurse aide trainee I in an approved 90-hour course shall be required to successfully complete part I of the course, including the nurse aide training and competency evaluation program task checklist to demonstrate initial competency, before being employed as a nurse aide trainee II. Any nurse aide trainee II may provide direct care to residents only under the direct supervision of an RN or LPN.

(2) Nurse aide trainee II status for employment shall be valid for only one four-month period from the beginning date of the course.

(d)(1) Each nurse aide course shall meet the following requirements:

(A) Consist of a combination of didactic and clinical instruction, with at least 50 percent of part I and at least 50 percent of part II of the curriculum provided as clinical instruction;

(B) be prepared and administered in accordance with the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas certified nurse aide course (90 hour) instruction manual,” as adopted by reference in K.A.R. 26-50-12; and

(C) be sponsored by one of the following, except as specified in paragraph (d)(3):

(i) An adult care home;

(ii) a long-term care unit of a hospital; or

(iii) a postsecondary school under the jurisdiction of the state board of regents.

(2) Clinical instruction and demonstration of the skills specified in the part I nurse aide training and competency evaluation program task checklist shall be performed in only one or a combination of the following settings that offer the full range of clinical tasks and experiences as specified in the “Kansas certified nurse aide curriculum guidelines (90 hours)”:

(A) An adult care home;

(B) a long-term care unit of a hospital; or

(C) a simulated laboratory.

(3) An adult care home shall not sponsor or provide clinical instruction for a 90-hour nurse aide course if that adult care home has been subject to any of the sanctions under the federal regulations for long-term care facilities listed in 42 C.F.R. 483.151(b)(2), as in effect on May 24, 2010.

(e) No correspondence course shall be approved as a nurse aide course.

(f) Each distance-learning offering and each computer-based educational offering of the nurse aide course shall meet the requirements specified in subsection (d). (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T- _____, _____; effective P- _____.)

26-50-22. Nurse aide training course; personnel and course sponsor. (a) The training of nurse aides shall be performed by or under the general supervision of a course supervisor.

Each course supervisor shall meet the following requirements:

(1) Be licensed to practice as an RN and have no pending or current disciplinary actions against that individual's license;

(2) have at least two years of full-time licensed nursing experience, which shall include at least 1,750 hours of licensed nursing experience in an adult care home or a long-term care unit of a hospital; and

(3) meet at least one of the following requirements:

(A) Completed a course in adult education;

(B) completed a professional continuing education offering on supervision or adult education;

(C) taught adults; or

(D) supervised nurse aides.

(b) When seeking approval as a course supervisor, the person shall submit a completed course supervisor application to the department at least three weeks before offering an initial training course and shall have obtained approval from the secretary before the beginning date of that training course.

(c) Each instructor of any nurse aide training course shall meet the following requirements:

(1) Be licensed to practice as an RN and have no pending or current disciplinary actions against that individual's license;

(2) have at least two years of full-time licensed nursing experience;

(3) have completed at least seven hours of professional continuing education offerings on person-centered care in an adult care home or a long-term care unit of a hospital not more than one year before becoming an instructor of the nurse aide training course and each year while serving as an instructor; and

(4) meet at least one of the following requirements:

(A) Completed a course in adult education;

(B) completed a professional continuing education offering on supervision or adult education;

(C) taught adults; or

(D) supervised nurse aides.

(d) Any supplemental instructor may provide training in a subject area of the supplemental instructor's healthcare profession if that person has skills and knowledge in the subject area, has at least one year of full-time experience in that person's healthcare profession, and is under the direct supervision of the course supervisor or instructor.

(e) One person may serve as both course supervisor or instructor, if the person meets the qualifications of the designated positions as specified in subsections (a) and (c).

(f) Each course supervisor and course sponsor shall ensure that the following requirements are met:

(1) A completed course approval application shall be submitted to the department at least three weeks before offering any initial or subsequent nurse aide training course. Course approval

shall be obtained from the secretary before the beginning date of the initial course and each subsequent course. Each change in course supervisor, course location, or course schedule shall require prior approval by the secretary.

(2) All course objectives shall be accomplished.

(3) The course shall be prepared and administered in accordance with the “Kansas certified nurse aide curriculum guidelines (90 hours)” and the “Kansas certified nurse aide course (90 hour) instruction manual,” as adopted by reference in K.A.R. 26-50-12.

(4) The provision of direct care to residents by a nurse aide trainee II during clinical instruction shall be under the direct supervision of the instructor and shall be limited to clinical experiences that are only for the purpose of learning nursing skills.

(5) During the clinical instruction, the instructor shall perform no duties other than the provision of direct supervision to the nurse aide trainees.

(6) Each nurse aide trainee in the 90-hour nurse aide course shall demonstrate competency in all skills identified on the part I nurse aide training and competency evaluation program task checklist to an RN, as evidence of successful completion of the training course. The RN shall be licensed in the state of Kansas with no pending or current disciplinary action against that person’s license and shall have at least one year of licensed nurse experience in providing care for the elderly or chronically ill who are 16 years of age or older. This RN shall date and sign the checklist verifying the nurse aide trainee’s skills competency.

(7) Each course supervisor, instructor, and supplemental instructor shall meet the requirements of the designated positions as specified in subsections (a), (c), and (d).

(g) Any course supervisor or course sponsor who does not meet the requirements of this regulation may be subject to withdrawal of approval to serve as a course supervisor or course sponsor. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T- _____, _____; effective P- _____.)

26-50-24. Nurse aide; state test. (a) The state test for nurse aides shall consist of 100 multiple-choice questions. A score of 75 percent or higher shall constitute a passing score.

(b)(1) Only persons who have successfully completed an approved 90-hour nurse aide course or have completed education or training that has been deemed equivalent as specified in K.A.R. 26-50-26 shall be allowed to take the state test.

(2) Each person who has completed an approved 90-hour course as specified in K.A.R. 26-50-20 shall have no more than three attempts within 12 months after the beginning date of the course to pass the state test. If the person does not pass the state test within this 12-month period, the person shall be required to retake and successfully complete the entire nurse aide course.

(3) Each person whose education or training has been endorsed or deemed equivalent as specified in K.A.R. 26-50-26 shall have no more than one attempt to pass the state test, except as specified in this paragraph. If the person does not pass the state test, the person shall be required to successfully complete an approved 90-hour nurse aide course as specified in K.A.R. 26-50-20 to be eligible to retake the state test. The person shall have no more than three attempts within 12 months after the beginning date of the course to pass the state test.

(c)(1) Each nurse aide trainee II shall pay a nonrefundable application fee of \$20.00 before taking the state test. A nonrefundable application fee shall be required each time the person is scheduled to take the state test.

(2) Each person who is scheduled to take the state test but fails to take the state test shall submit another nonrefundable application fee of \$20.00 before being scheduled for another opportunity to take the state test.

(3) Each instructor shall collect the application fee and application for each nurse aide trainee II who is eligible to take the state test and shall submit the application fees, application forms, class roster, and accommodation request forms to the department or its designated agent.

(d)(1) Any person who is eligible to take the state test may request reasonable test accommodation or an auxiliary aid to address the person's disability. Each time the person is scheduled to take the test, the person shall submit a request for reasonable accommodation or an auxiliary aid.

(2) Each person who requests a test accommodation shall submit an accommodation request form with the person's application form to the instructor. The instructor shall forward these forms to the department or its designated agent at least three weeks before the desired test date.

(3) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability with regard to accommodations. An extended testing period of up to two additional hours may be offered to persons with limited English proficiency.

(e) Any entity administering the state test may charge each person a test administration fee. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T- _____, _____; effective P- _____.)

26-50-26. Nurse aide; out-of-state and allied health training equivalency. (a) Any person may be employed in the state without taking the Kansas state test if the person meets the following requirements:

(1) Has been employed as a nurse aide in another state and is eligible for employment in that state; and

(2) has been determined by the secretary to have successfully completed training or passed a test, or both, that is equivalent to the training and state test required in Kansas for nurse aides.

(b) Each person qualified under subsection (a) shall receive written notification from the department of the following:

(1) Exemption from the requirement to take the state test for nurse aides;

(2) placement on the Kansas nurse aide registry; and

(3) eligibility for employment.

(c) Each of the individuals specified in this subsection shall be determined to have training equivalent to the nurse aide training. Any of the following individuals may be deemed eligible to take the state test, as specified in K.A.R. 26-50-24:

(1) The person is currently licensed to practice as an RN or LPN in another state and has no pending or current disciplinary actions against that individual's license.

(2) The person is currently licensed to practice as a licensed mental health technician in Kansas or another state and has no pending or current disciplinary action against that individual's license.

(3) The person's license to practice as an RN, LPN, or licensed mental health technician has become inactive within the 24-month period immediately before the individual applied for equivalency, and the person has no pending disciplinary actions against that person's license.

(4) The person is currently enrolled in an accredited practical or professional nursing program or mental health technician training program and has successfully completed basic skills courses covering personal hygiene, nutrition and feeding, safe transfer and ambulation techniques, normal range of motion and positioning, and a supervised clinical experience in geriatrics.

(d) Any person eligible under subsection (c) may receive written approval from the secretary or the secretary's designee to take the state test. Upon receiving this written approval, that person may be employed by an adult care home as a nurse aide trainee II to provide direct care under the direct supervision of an RN or LPN. That person shall complete the requirement in K.A.R. 26-50-20(a)(2) for certification and placement on the Kansas nurse aide registry, within one four-month period beginning on the date of approval to take the state test, to continue employment providing direct care. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908; effective, T- _____, _____; effective P- _____.)

26-50-30. Medication aide; program. (a) Each medication aide shall meet the following requirements:

(1)(A) Be a certified nurse aide listed on the Kansas nurse aide registry with no pending or current prohibitions against that individual's certification; or

(B) be a qualified intellectual disability professional;

(2) successfully complete a course in medication administration approved by the secretary;

(3) pass the state test approved by the secretary; and

(4) be at least 18 years old.

(b) Each person shall meet one of the following requirements to be eligible to enroll in a medication aide course:

(1) Be a nurse aide listed on the Kansas nurse aide registry with no pending or current prohibitions against that individual's certification and have been screened and tested for reading and comprehension of the written English language at an eighth-grade level; or

(2) be a qualified intellectual disability professional employed by an intermediate care facility for people with intellectual disability.

(c) A qualified intellectual disability professional who is not listed as a certified nurse aide on the Kanas nurse aide registry shall be allowed to administer medications only to residents in an intermediate care facility for people with intellectual disability after the individual has completed a course in medication administration approved by the secretary and has passed the state test.

(d) Each medication aide course shall meet the following requirements:

(1) Consist of at least 75 hours, which shall include at least 25 hours of clinical instruction;

(2) be prepared and administered in accordance with the “Kansas certified medication aide curriculum” and the “Kansas certified medication aide course instruction manual,” as adopted by reference in K.A.R. 26-50-12; and

(3) be sponsored by one of the following:

(A) A postsecondary school under the jurisdiction of the state board of regents;

(B) a state-operated institution for persons with intellectual disability; or

(C) a professional health care association approved by the secretary.

(e) No correspondence course shall be approved as a medication aide course.

(f) Each distance-learning offering and each computer-based educational offering of the medication aide course shall meet the requirements in subsection (d).

(Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-925, 39-936, and 39-1908 and K.S.A. 65-1,120; effective, T- _____, _____; effective P- _____.)

26-50-32. Medication aide course; instructor and course sponsor. (a) Each instructor of the medication aide course shall meet the following requirements:

(1) Be licensed to practice as an RN and have no pending or current disciplinary actions against that individual's license; and

(2) have at least two years of clinical experience as an RN. Any pharmacist licensed in Kansas and actively working in the pharmacy field may conduct part of the training under the supervision of an approved instructor.

(b) When seeking approval as a medication aide course instructor, the applicant shall submit a completed instructor approval application to the department at least three weeks before offering an initial course and shall have obtained approval from the secretary before the beginning date of the initial course.

(c) Each instructor and each course sponsor shall ensure that the following requirements are met:

(1) A completed course approval application form shall be submitted to the department at least three weeks before offering any initial or subsequent medication aide course. Course approval shall be obtained from the secretary before the beginning date of each initial or subsequent medication aide course.

(2) The course shall be prepared and administered in accordance with the "Kansas certified medication aide curriculum" and the "Kansas certified medication aide course instruction manual," as adopted by reference in K.A.R. 26-50-12.

(3) Only persons who meet the qualifications specified in K.A.R. 26-50-30 shall be eligible to take the course.

(4) Each person shall be screened and tested for comprehension of the written English language at an eighth-grade reading level before enrolling in the course.

(5) The clinical instruction and skills performance involving the administering of medications shall be under the direct supervision of the instructor and shall be limited to clinical experiences that are only for the purpose of learning medication administration skills.

(6) During the clinical instruction and skills performance, the instructor shall perform no duties other than the provision of direct supervision to the student.

(7) A list of the name of each person who successfully completed the course and passed the state test, along with a nonrefundable application fee of \$20.00 for each person and that person's completed application form, shall be submitted to the department.

(d) Any instructor or course sponsor who does not fulfill the requirements of this regulation may be subject to withdrawal of approval to serve as an instructor or a course sponsor. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-925, 39-936, and 39-1908 and K.S.A. 65-1,120 and 65-1,121; effective, T- _____, _____; effective P- _____.)

26-50-34. Medication aide; state test; registry. (a) The state test for medication aides shall be administered by the secretary or the secretary's designee and in accordance with the "Kansas certified medication aide course instruction manual," as adopted by reference in K.A.R. 26-50-12.

(b) The state test for medication aides shall consist of 85 multiple-choice questions. A score of at least 65 correct answers shall constitute a passing score.

(c)(1) Only persons who have met the requirements in K.A.R. 26-50-30 (a)(1), (2), and (4) and in K.A.R. 26-50-36 shall be eligible to take the state test for medication aides.

(2) Each person who has completed the medication aide course as specified in K.A.R. 26-50-30 shall have no more than two attempts within 12 months after the beginning date of the course to pass the state test for medication aides. If the person does not pass the test within this 12-month period, the person shall retake the medication aide course. Each time the person successfully completes the course, the person shall have two attempts to pass the state test within 12 months after the beginning date of the course. The number of times a person may retake the course shall be unlimited.

(3) Each person who is listed on the Kansas nurse aide registry with no current or pending prohibitions and whose training has been deemed equivalent to the Kansas medication aide course shall have no more than one attempt to pass the state test within 12 months after the beginning date of the equivalency approval. If the person does not pass the state test within this 12-month period, the person shall be required to take the state medication aide course.

(d) Each person whose second language is English shall be allowed to use a bilingual dictionary while taking the state test. Limited English proficiency shall not constitute a disability

with regard to accommodation. An extended testing period of up to 90 minutes may be offered to persons with limited English proficiency.

(e) Each person shall be identified on the Kansas nurse aide registry as a certified medication aide after the department has received the following:

- (1) A list of the name of each person who successfully completed the course;
- (2) each person's application; and
- (3) each person's nonrefundable fee of \$20.00. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-925, 39-936, and 39-1908 and K.S.A. 65-1,120 and 65-1,121; effective, T- _____, _____; effective P- _____.)

26-50-36. Medication aide; out-of-state and allied health training equivalency. Any person whose education or training has been deemed equivalent to the medication aide course offered by an approved sponsor as specified in K.A.R. 26-50-30(d) may apply to take the state test to become certified as a medication aide. Before requesting a determination of education or training equivalency as a medication aide, that person shall be listed on the Kansas nurse aide registry with no pending or current prohibitions against that person's certification and shall meet one of the following requirements:

(a) The person shall be currently certified to administer medications in another state. The department or its designated agent shall evaluate that state's certification training for equivalency in content and skills level with the requirements for certification as a medication aide in Kansas.

(b) The person shall be currently enrolled in an accredited practical nursing or professional nursing program and shall have completed a course of study in pharmacology with a grade of C or better.

(c) The person shall be currently licensed in Kansas or another state as a licensed mental health technician and shall have no pending or current disciplinary actions against that person's license.

(d) The person's license to practice as an RN, an LPN, or a licensed mental health technician shall have become inactive within the 24-month period immediately before the individual applied for equivalency, and the person shall have no pending or current disciplinary actions against that person's license. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-925, 39-936, and 39-1908 and K.S.A. 65-1,120; effective, T- _____, _____; effective P- _____.)

26-50-38. Medication aide; certification renewal and reinstatement; notification of changes. (a) Each person who has been certified as a medication aide as specified in K.A.R. 26-50-30 and wants to maintain that person's certification shall complete a 10-hour continuing education course every two years before that person's certification expires. The course shall be approved by the secretary. Approved continuing education hours completed in excess of the requirement shall not be carried over to the next certification renewal period.

(b) Each medication aide's certification shall be renewed every two years upon the department's receipt of each of the following from the course instructor before that medication aide's certification expires:

(1) Verification of the medication aide's completion of 10 hours of an approved continuing education course;

(2) the medication aide's renewal form; and

(3) a nonrefundable renewal fee of \$20.00.

(c)(1) Each person's medication aide certification shall be valid for two years from the date of issuance.

(2) Each person whose medication aide certification has been expired for not more than one year may have that person's certification reinstated and may be listed on the Kansas nurse aide registry if the department receives the items specified in paragraphs (b)(1) through (3) from the course instructor.

(3) Each person whose certification has been expired for more than one year shall retake the 75-hour medication aide course and the state test, for reinstatement of certification and listing on the Kansas nurse aide registry.

(d) Each certified medication aide shall notify the department of any change in that

26-50-38 (2)

person's address or name. (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-925, 39-936, and 39-1908 and K.S.A. 65-1,120 and 65-1,121; effective, T- _____, _____; effective P- _____.)

26-50-40. Medication aide; continuing education course. (a) A 10-hour continuing education course shall be approved by the secretary for renewal or reinstatement of certification as a medication aide, as specified in K.A.R. 26-50-38.

(b) The continuing education course requirement shall include one or more of the following topics:

- (1) Classes of drugs and new drugs;
- (2) new uses of existing drugs;
- (3) methods of administering medications;
- (4) alternative treatments, including herbal drugs and their potential interaction with traditional drugs;
- (5) safety in the administration of medications; or
- (6) documentation.

(c) Each continuing education program shall be sponsored by one of the following:

- (1) A postsecondary school under the jurisdiction of the state board of regents;
- (2) an adult care home;
- (3) a long-term care unit of a hospital;
- (4) a state-operated institution for persons with intellectual disability; or
- (5) a professional health care association approved by the secretary.

(d) Each instructor of the medication aide continuing education course shall meet the following requirements:

- (1) Be licensed to practice as an RN and have no pending or current disciplinary actions against that individual's license;

(2) have at least two years of clinical experience as a licensed nurse. Any pharmacist licensed in Kansas and actively working in the pharmacy field may conduct part of the training under the supervision of an approved instructor; and

(3) submit a completed instructor approval application to the department at least three weeks before first offering a medication aide continuing education course and obtain approval from the secretary before the beginning date of that course.

(e) Each instructor and course sponsor shall ensure that the following requirements are met:

(1) A course approval application form shall be submitted to the department at least three weeks before offering a course, and course approval shall be received from the secretary before the beginning date of the course.

(2) The course shall be prepared and administered in accordance with “Kansas certified medication aide curriculum” and the “Kansas certified medication aide course instruction manual,” as adopted by reference in K.A.R. 26-50-12.

(3) If clinical instruction and skills performance in administering medication are included in the course, each student administering medication shall be under the direct supervision of the instructor.

(4) A listing of the name of each person who successfully completed the course, along with each person’s nonrefundable renewal fee of \$20.00 and application form, shall be submitted to the department.

(f) Any course sponsor or instructor who does not fulfill the requirements specified in subsections (a) through (e) may be subject to withdrawal of approval to serve as a course sponsor or an instructor.

(g) College courses and vocational training may be approved by the secretary as substantially equivalent to a medication aide continuing education course. The instructor or nursing program coordinator shall submit a department-approved form attesting that the course content is substantially equivalent to the topics listed in paragraphs (b)(1) through (6).

(h) No correspondence course shall be approved for a medication aide continuing education course.

(i) Each distance-learning educational offering and each computer-based educational offering of continuing education for any medication aide shall meet the requirements in subsections (a) through (f). (Authorized by K.S.A. 2012 Supp. 39-925, 39-936, 39-1901, and 39-1908; implementing K.S.A. 2012 Supp. 39-936 and 39-1908 and K.S.A. 65-1,121; effective, T-_____, _____; effective P- _____.)

28-39-164 through 28-39-167. (Authorized by K.S.A. 2008 Supp. 39-925(d)(2); implementing K.S.A. 2008 Supp. 39-936; effective Feb. 28, 1994; amended Dec. 29, 2003; amended June 12, 2009; revoked, T-_____, _____; revoked P- _____.)

28-39-168. (Authorized by K.S.A. 2008 Supp. 39-925(d)(2) and 39-936; implementing K.S.A. 2008 Supp. 39-936; effective Feb. 28, 1994; amended Dec. 29, 2003; amended June 12, 2009; revoked, T-_____, _____; revoked P- _____.)

28-39-169a. (Authorized by K.S.A. 75-5625; implementing K.S.A. 65-1,120 and K.S.A. 2010 Supp. 65-1124; effective Dec. 29, 2003; amended Oct. 14, 2011; revoked, T-_____, _____; revoked P-_____.)

28-39-169b. (Authorized by K.S.A. 75-5625; implementing K.S.A. 65-1,120 and K.S.A. 2010 Supp. 65-1124; effective Dec. 29, 2003; amended Oct. 14, 2011; revoked, T-_____, _____; revoked P-_____.)

28-39-169c. (Authorized by K.S.A. 65-1,121 and 75-5625; implementing K.S.A. 65-1,121 and K.S.A. 2010 Supp. 65-1124; effective Dec. 29, 2003; amended Oct. 14, 2011; revoked, T-_____, _____; revoked P-_____.)

KANSAS DEPARTMENT FOR AGING AND DISABILITY SERVICES
ECONOMIC IMPACT STATEMENT
June 17, 2013

In 2012, The Kansas Legislature passed K.S.A. 39-1908, transferring administration of the Health Occupations Credentialing (HOC) from the Secretary of the Kansas Department of Health and Environment (KDHE) to the Secretary of the Kansas Department for Aging and Disability Services (KDADS), including KDHE regulations pertaining to the nurse aide and medication aide program, effective June 12, 2009 and October 14, 2011 respectively. The KDHE Health Occupations Credentialing regulations transferred to KDADS are being re-organized and updated to reflect new standards. A new numbering system has been developed to accommodate this change. The following is a list of the regulations included in this series along with a brief description of significant revisions.

I. Summary of Revised and New Regulation, Including Its Purpose

Adult Care Home Regulation:

26-39-100. Definitions. The amendment to this KDADS regulation specifies its applicability to both adult care homes and their employees, with the following revisions incorporated: 1) definition for “concentrated livestock operation”; 2) terminology changes to “intermediate care facility for people with intellectual disabilities” and “advanced practice registered nurse”; and 3) changes of the department’s name to Kansas Department for Aging and Disability Services, and regulatory references for nurse aide and medications aides.

Health Occupations Credentialing Regulations:

26-50-10. Definitions. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-164. The regulation includes additional terms: general supervision, course supervisor; revised definitions: instructor, eligible for employment; and deleted duplicate terms defined in K.A.R. 26-39-100.

26-50-12. Curricula and instruction manuals. This new regulation centralizes the Nurse Aide and Medication Aide Curriculum Guides and the respective course instruction manuals dated May 10, 2013, into a single regulation.

26-50-20. Nurse aide; training program. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-165. The regulation identifies the certification of a person as a nurse aide by placement of that person’s name on the Kansas nurse aide registry versus the issuance of a paper certificate. The regulation also specifies clinical instruction and demonstration of skill competency of the training course must take place in a setting that offers a full range of clinical tasks and experiences as specified in the curriculum.

26-50-22. Nurse aide training course; personnel and course sponsor. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-166. The regulation presents a new structure and additional requirements for the nurse aide training course personnel that

includes: 1) A course supervisor who provides general supervision of the CNA training course. The requirements for a person in this position were previously those of the course instructor. 2) An RN who is the instructor of the training course. This person must complete seven hours of professional continuing education offerings on person centered care prior to teaching the course and annually thereafter. This replaces the current requirement of having 1750 hours of licensed nursing experience in an adult care home or long term care unit of a hospital; and 3) a registered nurse who has at least one year of licensed nurse experience in providing care for the elderly or chronically ill who are 16 years of age or older to whom a nurse aide trainee must demonstrate competency in all skills identified on part I of the nurse aide training and competency evaluation program task checklist.

26-50-24. Nurse aide; state test. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-168. The regulation permits any entity administering the state test to charge each person a test administration fee.

26-50-26. Nurse aide; Out-of-state and allied health training equivalency. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-167. The statutory requirement for granting equivalency was added to this regulation.

26-50-30. Medication aide; program. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169a. The regulation requires a medication aide to be at least 18 years of age.

26-50-32. Medication aide course; instructor and course sponsor. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169a.

26-50-34. Medication aide; state test; registry. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169b. The regulation specifies the eligibility requirements for a person who takes the test. The regulation also identifies the certification of a person as a medication aide on the Kansas nurse aide registry versus the issuance of a paper certificate.

26-50-36. Medication aide; Out-of-state and allied health training equivalency. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169a.

26-50-38. Medication aide; certification renewal and reinstatement; notification of changes. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169c. The regulation requires a person whose certification as a medication aide has been expired for more than one year to retake the medication aide course and state test for reinstatement of their certification.

26-50-40. Medication aide; continuing education course. This new regulation corresponds to existing KDHE regulation K.A.R. 28-39-169c.

Health Occupations Credentialing Regulation Revocations:

- 28-39-164 – Definitions
- 28-39-165 – Nurse Aide Training Program
- 28-39-166 – Nurse Aide Course Instructor
- 28-39-167 – Out-of-state and Allied Health Training Endorsement for Nurse Aide
- 28-39-168 – State Nurse Aide Test
- 28-39-169a – Medication Aide
- 28-39-169b – State Medication Aide Test
- 28-39-169c – Medication Aide Continuing Education

II. Reason or Reasons the Proposed Regulation is Required, Including Whether or Not the Regulation is Mandated by Federal Law:

These regulations establish minimum standards and requirements related to nurse aide certification and medication aide certification. These requirements are deemed necessary to promote the health, safety, and well-being of residents of adult care homes. The proposed regulations for nurse aide certification are mandated by federal law 42 CFR 483.151-483.158. The proposed regulations for medication aide certification are not mandated by federal law, nor are they required to participate in, or implement, a federally subsidized, or assisted program.

III. Anticipated Economic Impact Upon the Following:

a. Kansas Department for Aging and Disability Services:

Additional staff time required in providing technical assistance on the new regulations, initial processing of course supervisor applications, approving approximately 25% additional course trainings, and processing approximately 25% additional persons for placement on the Kansas nurse aide registry will be absorbed by current allocated staff positions and increased use of technology. Agency costs will include publication in *Kansas Register*, revision of policy manuals and training materials.

b. Other Governmental Agencies:

In addition to KDADS, the Department of Administration, the Attorney General, the Kansas Legislature (through the Joint Committee on Rules and Regulations and the Legislative Research Department), and the Secretary of State shall bear the costs associated with the adoption of these regulations.

c. Small employers:

The new structure and requirements for the nurse aide training personnel will result in the availability of more certified nurse aides thereby positively impacting adult care homes by reducing the need for more costly agency staff. The agency is not able to

determine the savings as the cost report does not identify separate categories for contract staff.

d. Private Citizens:

None.

e. Consumers

None

IV. Less Costly or Intrusive Methods That Were Considered, but Rejected, and the Reason for Rejection.

No other methods were considered since these regulations will not adversely impact any of the affected entities economically and have the potential for positively promoting the health, safety, and well-being of the residents of adult care homes. Stakeholders, including providers, representatives from the provider associations, consumer protection organization, and community technical colleges have participated in discussion of these revisions and feedback was encouraged.